

**Illinois Department of Revenue
Regulations**

Title 86 Part 153 Section 153.110 Basis and Rate of the Tax
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**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 153
WATERCRAFT USE TAX**

Section 153.110 Basis and Rate of the Tax

a) Non-Retail Sales of Watercraft

The rate of tax is 6.25% of the purchase price for each watercraft that is subject to tax under the Law [35 ILCS 158/15-15]. However, the purchase price shall not be less than the fair market value of the watercraft on the date the watercraft is purchased or the date the watercraft is brought into the State, whichever is later, unless the purchaser can document that a different value is reasonable. In the case of transfers between immediate family members, purchase price ordinarily means the consideration actually paid, unless it appears from the facts and circumstances that the primary motivation of the transfer was the avoidance of tax. Examples:

- 1) An Illinois resident buys a 20-foot pontoon boat valued at \$20,000 from an individual (non-retailer) in Wisconsin for \$5,000 on September 5, 2004. On September 25, 2004, she brings the pontoon boat into Illinois for use at her lake home. Watercraft Use Tax is due on the fair market value of the watercraft (\$20,000) on September 25, 2004 when the watercraft entered the State, unless she can document that the \$5,000 she paid was reasonable.
- 2) A person living in Champaign, Illinois sells his \$10,000 fishing boat to his son for \$8,000. The taxable purchase price for this sale between immediate family members will ordinarily be the \$8,000 actually paid, unless the Department determines the primary motivation of the sale was the avoidance of tax.

b) Gifts and Other Transfers of Watercraft

For purposes of calculating the tax due when a watercraft is acquired by gift or transfer, the tax shall be imposed on the fair market value of the watercraft on the date the watercraft is acquired or the date the watercraft is brought into the State, whichever is later. In the case of gifts between immediate family members, no tax is due unless it appears from the facts and circumstances that the primary motivation of the transfer was the avoidance of tax. Examples:

- 1) A woman living in Carbondale decides to give her 18-foot johnboat to her fiancé. Her fiancé incurs Watercraft Use Tax based on the fair market value of the johnboat.

- 2) Dad gives his jet ski to his daughter. No tax is due unless it appears that the primary motivation for the gift was the avoidance of tax.
- 3) A woman wants to purchase a 35-foot boat that she finds for sale in California. In order to avoid the Watercraft Use Tax, she convinces her sister, who lives in California, to purchase the boat for her for \$50,000. She claims that her sister "sold" the boat to her for \$500 so she can use the boat in Illinois. The primary motivation under this set of facts and circumstances would be viewed as the avoidance of tax, and Watercraft Use Tax would be owed on the fair market value (\$50,000) of the boat.
- 4) The XYZ partnership, owner of a 24-foot sailboat, is dissolved. All ownership of the sailboat is transferred to partner X following the dissolution. Partner X must pay Watercraft Use Tax on the fair market value of the sailboat.

c) Transfers of Fractional Shares of Watercraft

When an ownership share of a watercraft is acquired, the tax is imposed on the purchase price of that share. All owners are jointly and severally liable for any tax due as a result of the purchase, gift, or transfer of an ownership share of the watercraft. [35 ILCS 158/15-5]

In the case of ownership shares sold between immediate family members, purchase price ordinarily means the consideration actually paid, unless it appears from the facts and circumstances that the primary motivation of the selling of the shares was the avoidance of tax. In the case of a share of a watercraft acquired by gift between family members, no tax is due unless it appears from the facts and circumstances that the primary motivation of the share transfer was the avoidance of tax. Examples:

- 1) An Illinois resident owns a 1/10 undivided interest share in a \$10,000 houseboat. She sells her 1/10 share of the houseboat to her neighbor for \$1,000. Watercraft Use Tax is due on the purchase price of the 1/10 share (\$1,000). However, each of the remaining undivided owners is also responsible for the total amount of taxes due as a result of the sale of the 1/10 share on the \$1,000 purchase price.
- 2) A Springfield resident purchases a 1/2 share of a 20-foot sailboat with a fair market value of \$10,000. He files a return listing the value of his 1/2 share of the sailboat as \$1,000. The Department will use the \$10,000 fair market value of the sailboat to determine his 1/2 share interest (\$5,000), if he cannot demonstrate that the \$1,000 value is reasonable.

d) Credit for Taxes Paid

The Watercraft Use Tax does not apply to the use of watercraft *acquired outside this State and brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase, or use of the watercraft, to the extent of the amount of tax properly due and paid in the other state* [35 ILCS 105/3-55(d)]. (See 35 ILCS 158/15-10.) For purposes of this subsection, the term "state" is limited to a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. Examples:

- 1) A resident of Illinois who is on vacation in Nevada buys an 18-foot fishing boat from an individual in Nevada, and pays the proper amount of Nevada tax. She later

moves her boat to Illinois. She can receive a credit for taxes properly due and paid in Nevada up to the amount of Watercraft Use Tax due on the boat in Illinois.

- 2) While vacationing in Europe, an Illinois resident buys a 35-foot sea cruiser with an extra motor from an individual in Europe and pays European taxes. Upon returning home to Illinois with his boat, he must pay Watercraft Use Tax on the purchase price of \$50,000, which is the fair market value of the boat, including the motor. He will not get a credit for taxes paid in another country.

e) Determinations of Reasonable Value

The purchase price shall not be less than the fair market value of the watercraft on the date the watercraft is purchased or the date the watercraft is brought into the State, whichever is later, unless the purchaser can document that a different value is reasonable. To determine if a purchase price, other than fair market value, is reasonable, the Department shall consider any information provided by the taxpayer, including but not limited to:

- 1) date and location of sale;
- 2) condition of the watercraft and any motor sold in conjunction with the watercraft;
- 3) type and make of watercraft;
- 4) evidence of similar sales; and
- 5) whether such watercraft was purchased as a result of an estate sale or auction open to the general public.

f) Determination of Purchase Price

For the purpose of assisting in determining the validity of the purchase price reported on returns filed with the Department, the Department may furnish the following information to persons with whom the Department has contracted for service related to making that determination:

- 1) *the purchase price stated on the return;*
- 2) *the watercraft identification number;*
- 3) *the year, the make, and the model name or number of the watercraft;*
- 4) *the purchase date; and*
- 5) *the hours of operation.* [35 ILCS 158/15-30]

